



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
Denver, CO 80202-1129
Phone 800-227-8917
www.epa.gov/region08

FEB 22 2018

Ref: 8ENF-RC

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Roger Nober, Esq.
Executive Vice President, Law and Corporate Affairs
Burlington Northern Santa Fe, LLC
2650 Lou Menk Drive
Fort Worth, Texas 76131-2830

Re: Request for Information Pursuant to Sections 104(e) and 107 of CERCLA for the Illinois Gulch Site, southeast of Breckenridge, in Summit County, Colorado, Superfund #A8-88.

Dear Mr. Nober:

This letter seeks your cooperation in providing information and documents relating to the Illinois Gulch Site, located southeast of Breckenridge, in Summit County, Colorado (Site). A map depicting the Site and its associated mines and workings is included as Enclosure 1. The Environmental Protection Agency is investigating the identification, nature and quantity of materials that have been generated, treated, stored or disposed of at, or transported to, the Site and the nature or extent of the release of hazardous substances, pollutants or contaminants at the Site; and information relating to the ability of persons to pay for or to perform a cleanup at the Site.

Pursuant to the authority of section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. section 9604, as amended, you are hereby requested to respond to the Information Request set forth in Enclosure 2, attached hereto. Specifically, the EPA has information that Burlington Northern Santa Fe, LLC (BNSF) is successor to Colorado and Southern Railway Company (CSRC). Further, CSRC acquired a railroad which ran across the Site from the Denver, Leadville and Gunnison Railway Company in 1898. CSRC is suspected to have operated this railway route until 1937.

Please respond to the Information Request within 60 days of receipt of this letter. Failure to respond fully and truthfully, or to adequately justify your failure to respond, can result in an enforcement action by the EPA, pursuant to section 104(e) of CERCLA, and the imposition of penalties of up to \$55,907 per day of non-compliance. Please be further advised that provision of false, fictitious or fraudulent statements or representations may subject you to criminal penalties under 18 U.S.C. section 1001.

The Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. section 3501, *et seq.*

Your response to this request must be accompanied by a notarized certificate that is signed and dated by the person who is authorized by you to respond to this request. The notarized certificate must state that

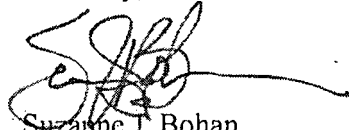
the response submitted to the EPA is complete and contains all documents and information responsive to this request that are known to you following a complete and thorough review of all information and sources available to you. A suggested format for the notarized certificate is included with this request as Enclosure 3.

The response to the Information Request should be mailed to:

U.S. Environmental Protection Agency
Region 8
Attn: Mike Rudy (8ENF-RC)
1595 Wynkoop Street
Denver, CO 80202-1129

The EPA strongly encourages you to give this matter your immediate attention and respond to the Information Request within the time specified above. If you have any questions relating to this Information Request, please contact Douglas Naftz, EPA Enforcement Attorney, at (303) 312-6942 or Mike Rudy, EPA Enforcement Specialist, at (303) 312-6332. Thank you for your cooperation in this matter.

Sincerely,



Suzanne J. Bohan
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Enclosures

cc: Douglas Naftz, 8ENF-L
Jean Wyatt, 8EPR-AR
Peter Stevenson, 8EPR-ER
Mike Rudy, 8ENF-RC
SEMS IMC (Dianna Lim), 8EPR-PS

INFORMATION REQUEST
Illinois Gulch Site, Summit County, Colorado, SSID #A8-88

INSTRUCTIONS

1. Please provide a separate narrative response to each and every question and subpart of a question set forth in this Information Request.
2. Precede each answer with the number of the question to which it corresponds.
3. If information or documents not known or not available to you as of the date of submission of a response to this Information Request should later become known or available to you, you must supplement your response to the EPA. Moreover, should you find, at any time after the submission of your response, that any portion of the submitted information is false or misrepresents the truth, you must notify the EPA of this fact as soon as possible and provide the EPA with a corrected response.
4. For each document produced in response to this Information Request, indicate on the document, or in some other reasonable manner, the number of the question to which it corresponds.
5. The information requested herein must be provided even though the Respondent may contend that it includes possibly confidential information or trade secrets. You may, if you desire, assert a confidentiality claim covering part or all of the information requested, pursuant to sections 104(e)(7)(E) and (F) of CERCLA, 42 U.S.C. 9604(e)(7)(E) and (F), section 3007(b) of RCRA, 42 U.S.C. 6927(b), and 40 C.F.R. part 2.203(b), by attaching to such information at the time it is submitted, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret," or "proprietary" or "company confidential." Information covered by such a claim will be disclosed by the EPA only to the extent, and only by means, of the procedures set forth in 40 C.F.R. part 2, 41 Fed. Reg. 36,902 (1976) (amended at 43 Fed. Reg. 40,000 (1978), and 50 Fed. Reg. 51,661 (1985)). If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to you. You should read the above-cited regulations carefully before asserting a business confidentially claim since certain categories of information are not properly the subject of such a claim.

DEFINITIONS AND INFORMATION

1. The term "CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act, and can be found at 42 U.S.C. section 9601, *et seq.*
2. The terms "document" and "documents" shall mean any written, recorded or visually or aurally reproduced material of any kind in any medium in your possession, custody, or control or known by you to exist, including originals, all prior drafts and all non-identical copies.

INFORMATION REQUEST (con't)

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3. The term "hazardous substance" shall have the same definition as that contained in section 101(14) of CERCLA and includes any mixtures of such hazardous substances with any other substances, including petroleum products.
4. The term "hazardous waste" shall have the same definition as that contained in section 1004(5) of RCRA.
5. The term "identify" means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (e.g., corporation, partnership, etc.), organization, if any, and a brief description of its business.
6. The term "identify" means, with respect to a document, to provide its customary business description, its date, its number if any (invoice or purchase order number), and the substance or the subject matter.
7. The term "identify" means, with respect to a natural person, to set forth the person's name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position or business.
8. The term "materials" shall mean all substances that have been generated, treated, stored or disposed of, or otherwise handled at or transported to the Site, including, but not limited to, all hazardous substances, pollutants or contaminants, hazardous wastes and solid wastes, as defined below, and mercury.
9. The term "person" shall have the same definition as in section 101(21) of CERCLA: an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, United States Government, state, municipality, commission, political subdivision of a state, or any interstate body.
10. The term "pollutant or contaminant" shall have the same definition as that contained in section 101(33) of CERCLA, and includes any mixtures of such pollutants or contaminants with any other substances, including petroleum products.
11. The term "Site" shall mean the Illinois Gulch site, which is located southeast of Breckenridge, in Summit County, Colorado, and includes the area situated between Little Mountain to the east and Illinois Gulch Road to the west. A map depicting the Site and its associated mines and workings is attached as Enclosure 1.
12. The term "RCRA" means the Resource Conservation and Recovery Act, amendments to the Solid Waste Disposal Act, and can be found at 42 U.S.C. section 6901, *et seq.*
13. The term "release" has the same definition as that contained in section 101(22) of CERCLA, 42 U.S.C. section 9601(22), and includes any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discharging of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant.

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14. The term "solid waste" shall have the same definition as that contained in section 1004(27) of RCRA.
15. The term "you" or "Respondent" shall mean the addressee of this Request and its predecessors, successors, parent companies, and subsidiary companies.

All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA, 42 U.S.C. section 9601, *et seq.*; RCRA, 42 U.S.C. section 6901, *et seq.*; or their regulations found at 40 C.F.R. part 300 and 40 C.F.R. part 260, *et seq.* respectively, in which case the statutory or regulatory definitions shall apply.

QUESTIONS AND REQUESTS

1. Identify the person(s) answering these questions by providing their name, address and telephone number.
2. Identify the person(s) whom you wish to receive all further communications from the EPA related to the Site.
3. For each and every question contained herein, identify all persons consulted in the preparation of the answer.
4. For each and every question contained herein, identify documents consulted, examined, or referred to in the preparation of the answer, or that contain information responsive to the question, and provide accurate copies of all such documents.
5. Describe all property interests that BNSF, or its predecessors, currently holds at the Site, or has held in the past, and any maps, surveys, or photographs that identify property held. Identify the person from whom you acquired each interest and provide the date the property interest was acquired. Provide copies of all deeds, leases, or other conveying instruments that contain the above information. If the property interest is no longer held, detail to whom it was transferred (provide contact information) and furnish copies of documentations detailing the transfer.
6. Describe the relationship between the Denver, Leadville and Gunnison Railway Company and CSRC, as it relates to the Site. Provide copies of all documents related to each relationship including, but not limited to, merger agreements, purchase agreements, property transfer documents and assumptions of liability.
7. Describe BNSF and its predecessors' activities and operations at the Site, including the following, and provide copies of all documents relating to such activities and/or operations:
 - a. A description of the operations conducted at the Site;
 - b. A description of the facilities related to each operation and a description of where the facilities were located;
 - c. The dates each facility operated;

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- d. The function performed or product produced by each facility;
 - e. Any changes BNSF or its predecessors made to the Site, including any demolition, removal, or improvements;
 - f. The activities taken upon cessation of operations at the Site;
 - g. The date BNSF or any predecessor transferred all or a portion of the Site and the entity to which the Site was transferred.
8. Describe and, where available, provide maps, drawings, photographs, and/or other images that depict the physical characteristics of the Site, including but not limited to the following:
- a. Surface structures and equipment (e.g., buildings, ore bins, tanks, etc.);
 - b. Right-of-ways;
 - c. Roads;
 - d. Railroad stations (including loading/unloading stations);
 - e. Railroad tracks or trackage (identify where and when the main and spur track were constructed);
 - f. Railroad tunnels;
 - g. Railroad roadways and aerial trams; and
 - h. Railroad embankments.
9. Provide any additional information or documents you may have which may shed light in regard to other owners or operators (i.e., other railroad companies or mining companies) at the Site, including, but not limited to, the nature of their current or past mining operations and interests at the Site.
10. Describe and provide any information you have regarding any mining activities at the Site. Include any boring activities, boring logs, mining, milling or smelting activities, ore production records, processing or reprocessing contracts and records of wastes produced from milling, mining or smelting activities at the Site. Provide copies of the mine plans and maps and process flow sheets used at any and all mines, mills or smelters at the Site.
11. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any question contained herein or who may be able to provide additional responsive documents, identify such persons and the additional information or documents that they may have.

NOTARIZED CERTIFICATE

I, _____, having been duly sworn and being of legal age, hereby state:

1. I am the person authorized by UPRR to respond to the Environmental Protection Agency's request for information concerning the Illinois Gulch Site, Summit County, Colorado, SSID #A8-88
2. I have made a complete and thorough review of all documents, information, and sources relevant to the request.
3. I hereby certify that the attached response to the EPA's request is complete and contains all information and documents responsive to the request.

(Signature)

(Name)

(Title)

(SEAL)

Subscribed and sworn to me this _____ day of _____, 2018.
Notary Public

My Commission Expires _____

My address is _____

ROUTING AND TRANSMITTAL SLIP

Date
02/06/18

TO: (Name, office symbol, room number, building, Agency/Post)	Initials	Date
1. Sue Zaynard (proof)	<i>sz</i>	2/6/18
2. Mike Rudy	<i>MR</i>	2/6/18
3. Doug Naftz	<i>DN</i>	2/8/18
4. Andrea Madigan	<i>am</i>	2/12/18
5. Chris Thompson	<i>CT</i>	2/15/18
6. Aaron Urdiales	<i>AU</i>	2/16/18
7. IO - ECEJ (Signature) <i>Concurred 2/21/18</i>	<i>EB</i>	2/21/18
8.		
9.		
10. Sue Zaynard (date, scan, and distribute)		
11.		
12.		
13.		
14.		
15.		

<input type="checkbox"/> Action	<input type="checkbox"/> File	<input type="checkbox"/> Note and Return
<input checked="" type="checkbox"/> Approval	<input type="checkbox"/> For Clearance	<input type="checkbox"/> Per Conversation
<input type="checkbox"/> As Requested	<input type="checkbox"/> For Correction	<input type="checkbox"/> Prepare Reply
<input type="checkbox"/> Circulate	<input type="checkbox"/> For Your Information	<input type="checkbox"/> See Me
<input type="checkbox"/> Comment	<input type="checkbox"/> Investigate	<input checked="" type="checkbox"/> Signature
<input type="checkbox"/> Coordination	<input type="checkbox"/> Justify	

REMARKS

Please retitle Encl. 2 "Information Request" per #2 of letter. Number pages for this enclosure + "Instructions" should be 1st section (not title of Encl. 2). Consider eliminating page breaks in this enclosure.

SR

DO NOT use this form as a RECORD of approvals, concurrences, disposals, clearances, and similar actions

FROM: (Name, org. symbol, Agency/Post)	Room No. - Bldg.
Mike Rudy	Phone No. 312-6332

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 		<p>A. Signature BNSF RWCY CO <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>X AOB/GL MAILROOM</p> <p>B. Received by (Printed Name) FORT WORTH, TX C. Date of Delivery 2/26/18</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Address below: <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<p>1. Article Addressed to: FEB 27 2018</p> <p>Roger Nober, Esq. Executive Vice President, Law & Corp. Affairs Burlington Northern Santa Fe, LLC 2650 Lou Menk Drive Fort Worth, TX 76131-2830</p>		<p>RECEIVED MAR 02 2018</p>	
<p>2. Article Number (Transfer from service label)</p> <p>7012 2210 0000 5369 3863</p>		<p>3. Service Type</p> <p><input type="checkbox"/> Adult Signature <input type="checkbox"/> Priority Mail Express®</p> <p><input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Registered Mail™</p> <p><input type="checkbox"/> Certified Mail® <input type="checkbox"/> Registered Mail Restricted Delivery</p> <p><input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Signature Confirmation™</p> <p><input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Signature Confirmation Restricted Delivery</p> <p><input type="checkbox"/> Insured Mail <input type="checkbox"/> Mail Restricted Delivery</p>	
<p>PS Form 3811, July 2015 PSN 7530-02-000-9053</p>		<p>Domestic Return Receipt</p>	

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<p>Roger Nober, Esq. Executive Vice President, Law & Corp. Affairs Burlington Northern Santa Fe, LLC 2650 Lou Menk Drive Fort Worth, TX 76131-2830</p>	
<p>PS Form 3800, August 2006 See Reverse for Instructions</p>	